

## § 2931.3

### § 2931.3 What are the authorities for these regulations?

(a) The statutory authorities underlying the regulations in this part are the Federal Land Policy and Management Act, 43 U.S.C. 1701 *et seq.*, and the Land and Water Conservation Fund Act, as amended, 16 U.S.C. 4601–6a.

(1) The Federal Land Policy and Management Act (FLPMA) contains the Bureau of Land Management's (BLM's) general land use management authority over the public lands, and establishes outdoor recreation as one of the principal uses of those lands (43 U.S.C. 1701(a)(8)). Section 302(b) of FLPMA directs the Secretary of the Interior to regulate through permits or other instruments the use of the public lands, which includes commercial recreation use. Section 303 of FLPMA contains BLM's authority to enforce the regulations and impose penalties.

(2) The Land and Water Conservation Fund (LWCF) Act, as amended, authorizes BLM to collect fees for recreational use (16 U.S.C. 4601–6a(a), (c)), and to issue special recreation permits for group activities and recreation events, and limits the services for which we may collect fees (16 U.S.C. 4601–6a(a), (b), (g)).

(3) The Sentencing Reform Act (18 U.S.C. 3571) is the authority for the possible penalties for violations of these regulations.

(b) The regulations at 36 CFR part 71 require all Department of the Interior bureaus to use the criteria in that part to set recreation fees. These criteria are based on the LWCF Act and stated in §§ 71.9 and 71.10 of that part.

### § 2931.8 Appeals.

(a) If you are adversely affected by a decision under this part, you may appeal the decision under parts 4 and 1840 of this title.

(b) All decisions BLM makes under this part will go into effect immediately and will remain in effect while appeals are pending unless a stay is granted under § 4.21(b) of this title.

### § 2931.9 Information collection.

The information collection requirements in this part have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and as-

## 43 CFR Ch. II (10–1–02 Edition)

signed clearance number 1004–0119. BLM will use the information to determine whether we should grant permits to applicants for Special Recreation Permits on public lands. You must respond to requests for information to obtain a benefit.

### Subpart 2932—Special Recreation Permits for Commercial Use, Competitive Events, Organized Groups, and Recreation Use in Special Areas

#### § 2932.5 Definitions.

*Actual expenses* means money spent directly on the permitted activity. These may include costs of such items as food, rentals of group equipment, transportation, and permit or use fees. Actual expenses do not include the rental or purchase of personal equipment, amortization of equipment, salaries or other payments to participants, bonding costs, or profit.

*Commercial use* means recreational use of the public lands and related waters for business or financial gain.

(1) The activity, service, or use is commercial if—

(i) Any person, group, or organization makes or attempts to make a profit, receive money, amortize equipment, or obtain goods or services, as compensation from participants in recreational activities occurring on public lands led, sponsored, or organized by that person, group, or organization;

(ii) Anyone collects a fee or receives other compensation that is not strictly a sharing of actual expenses, or exceeds actual expenses, incurred for the purposes of the activity, service, or use;

(iii) There is paid public advertising to seek participants; or

(iv) Participants pay for a duty of care or an expectation of safety.

(2) Profit-making organizations and organizations seeking to make a profit are automatically classified as commercial, even if that part of their activity covered by the permit is not profit-making or the business as a whole is not profitable.

(3) Use of the public lands by scientific, educational, and therapeutic institutions or non-profit organizations is commercial and subject to a permit